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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 JACKSON FAMILY WINES, INC., et al.,

12 Plaintiffs,

13 v.  
14

15 DIAGEO NORTH AMERICA, INC., et  
16 al.,

17 Defendants.  
18

Case No. 11-5639 EMC (JSC)

**ORDER DENYING IN PART AND  
GRANTING IN PART MOTION TO  
COMPEL (Dkt. No. 115)**

19 This trademark infringement action between wine industry competitors has resulted in  
20 numerous discovery disputes. Although fact discovery closed in July 2013, the parties have  
21 submitted yet another discovery dispute to the Court. On August 2, 2013, the Court granted  
22 Plaintiffs' motion to compel a 30(b)(6) deposition on, among other topics, the distribution of  
23 Defendants' Crème de Lye chardonnay product. (Dkt. No. 77.) The deposition of  
24 Defendants' 30(b)(6) designee on this topic, Paul Kalagher, occurred on October 30, 2013.  
25 Plaintiff now seeks another deposition on this same topic on the ground that Mr. Kalagher was  
26 not appropriately prepared to answer relevant questions. (Dkt. No. 115.) After carefully  
27 considering the parties' joint discovery letter brief, and having reviewed the transcript of Mr.  
28 Kalagher's deposition in its entirety, the Court declines to order a further deposition; however,

1 within one week of the date of this Order Defendants shall produce to Plaintiffs the documents  
2 which Mr. Kalagher reviewed to prepare for this deposition to the extent such documents have  
3 not previously been produced.

4 Plaintiffs' Rule 30(b)(6) notice broadly sought testimony regarding "[d]istribution of  
5 Your CRÈME DE LYS wine products, including but not limited to Your distribution through  
6 Southern Wine & Spirits of America d/b/a Pacific Wine and Spirits." (Dkt. No. 67-1.) While  
7 Mr. Kalagher was unable to answer some questions which he should have been prepared to  
8 answer, many of the deposition questions went to the topic's scope or were not clearly called  
9 for in light of its broad nature. For example, Mr. Kalagher cannot be faulted for not being  
10 able to answer questions regarding Defendants' conduct with respect to Plaintiff's La Crema  
11 product or communications with distributors. Further, many of the questions were actually  
12 about marketing, not distribution. If Plaintiffs wanted testimony on such discrete issues, the  
13 deposition notice needed to be more specific. Further, Plaintiffs were on notice that  
14 Defendants' distributors would likely have the most specific knowledge of where Crème de  
15 Lye is sold, yet Plaintiffs cancelled their deposition of Defendants' largest distributor. At this  
16 late date in the litigation when fact discovery has long closed a further 30(b)(6) deposition  
17 would serve no purpose other than to increase the parties' costs.

18 On the other hand, the answers to questions Mr. Kalagher should have been able to  
19 answer—for example, factual questions regarding where Defendants' product is sold—appear  
20 for the most part to be included in the documents Mr. Kalagher reviewed to prepare for his  
21 deposition. As Defendants do not dispute that the documents are relevant and responsive to  
22 Plaintiffs' previous discovery requests, Defendants shall produce the documents to Plaintiffs  
23 within one week of the date of this Order to the extent the documents have not previously  
24 been produced.

25 **IT IS SO ORDERED.**

26 Dated: December 2, 2013

27   
28 JACQUELINE SCOTT CORLEY  
UNITED STATES MAGISTRATE JUDGE